IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WA.No. 1964 of 2007

AGAINST THE JUDGEMENT DATED 20.3.2007 IN WPC.9361/2007
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APPELLANTS: PETITIONERS
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1. M/S.AISWARYA BUILDERS AND DEVELOPERS
A PARTNERSHIP FIRM HAVING IT'S PRINCIPAL PLACE OF BUSINESS AT IX/1035, JAWAHAR ROAD, KOCHI: 682 002
REP.BY IT'S PARTNER,MR.V.S.KRISHNAMOORTHY.

2. MR.V.S.KRISHNA MOORTHY, MANAGING PARTNER
M/S AISWARYA BUILDERS & DEVELOPERS IX/1035,
JAWAHAR ROAD, KOCHI-2.

3. MRS.GIRIJA KRISHNA MOORTHY,
PARTNER, M/S AISWARYA BUILDERS & DEVELOPERS,
IX/1035, JAWAHAR ROAD, KOCHI-2.

BY ADV. SRI.P.K.RAVINDRAN PUZHANKARA

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERLA REP.BY THE
CHIEF SECRETARY, SECRETARIAT BUILDINGS,
THIRUVANANTHAPURAM.

2. THE TAHSILDAR (ASSESSING AUTHORITY)
KOCHI TALUK, TALUK OFFICE,
FORT COCHIN, KOCHI- 682 001.

BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & V.K.MOHANAN, JJ.

W.A.No.1964 of 2007

Dated, this the 22nd day of August, 2007

JUDGMENT

Radhakrishnan, J.

Heard learned counsel on either side.

2. Evidently, the impugned order was passed based upon the circular issued by the Government that unregistered agreement entered into between builders and allottees of flats should be ignored. A learned Single Judge of this Court in **Bavasons Constructions (P) Ltd.** v. **State of Kerala** (2007 (3) KLT 101) has taken the view that a quasi judicial authority shall not be guided by instructions issued by superior officers or Government and shall independently consider the same in the light of the provisions contained in the Building Tax Act.

3. In the circumstances, we are inclined to set aside Ext.P24 and direct the Tahsildar to reconsider the matter in the light of the aforesaid judgment after affording an opportunity of hearing to the appellants and others.

Writ appeal is disposed of as above.

K.S.RADHAKRISHNAN, JUDGE

V.K.MOHANAN, JUDGE

vns